

**LYNCHBURG CITY COUNCIL**  
**Agenda Item Summary**

MEETING DATE: **April 9, 2002**

AGENDA ITEM NO.: 17

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – Christian Chapel – addition**

RECOMMENDATION: Approval of the requested CUP.

SUMMARY: Christian Chapel has petitioned for a CUP at 2347 Holliday Street to allow an addition to the existing Church in an R-3, Two-Family Residential District. The Planning Division (PD) recommended approval of the CUP because:

- Petition agrees with the *General Plan*, which recommends a Medium Density Residential use.
- Petition retains the institutional character of the block and is compatible with the community.

The petition was considered by the Planning Commission (PC) on March 20, at which time the PC recommended approval of the CUP, with the conditions noted below.

PRIOR ACTION(S):

March 20, 2002: Planning Division recommended approval of CUP  
Planning Commission recommended approval (7-0) of CUP with the following conditions:

1. The site shall be used and developed in substantial compliance with the site plan titled, "Site Plan, Proposed Addition for Child Care Facility, Christian Chapel" at 2347 Holliday Street, by Acres of Virginia, dated January 14, 2002.
2. The maximum number of children shall be restricted to 49, unless a separate CUP petition is submitted to and approved by City Council.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn/ 847-1508, ext. 253  
Bill McDonald/ 847-1508, ext. 257

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Vicinity Zoning Pattern
- Vicinity Proposed Land Use
- Site plans – previous and current

REVIEWED BY:

## RESOLUTION

A RESOLUTION GRANTING A CONDITONAL USE PERMIT TO CHRISTIAN CHAPEL FOR USE OF THE PROPERTY AT 2347 HOLLIDAY STREET TO CONSTRUCT AN ADDITION TO AN EXISTING CHURCH, SUBJECT TO CERTAIN CONDITONS.

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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of Christian Chapel for a Conditional Use Permit for use of the property at 2347 Holliday Street to construct an addition to an existing church to allow the operation of a child care center be, and the same is hereby, approved, subject to the following conditions:

1. The site shall be used and developed in substantial compliance with the site plan titled "Site Plan, Proposed Addition for Child Care Facility, Christian Chapel" at 2347 Holliday Street, by Acres of Virginia, dated January 14, 2002.
2. The maximum number of children shall be restricted to 49, unless a separate CUP petition is submitted to and approved by City Council.

Adopted:

Certified:

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Clerk of Council

075L

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** March 20, 2002  
**Re: CONDITIONAL USE PERMIT (CUP): 2347 HOLLIDAY STREET**

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**I. PETITIONER**

Christian Chapel, 2347 Holliday Street, Lynchburg, VA 24501.  
**Representatives:** Ray Triplett, Thomas Brooks

**II. LOCATION**

The subject property is a tract of about 0.9 acres located at 2347 Holliday Street at its intersection with Edmunds Street.

**Property Owner:** Christian Chapel, 2347 Holliday Street, Lynchburg, VA 24501.

**III. PURPOSE**

The purpose of this petition is to allow the operation of a child care facility for approximately 49 children in the existing Church building in an R-3, Two-Family Residential District.

**IV. SUMMARY**

- Petition agrees with the *General Plan*, in that care centers are permitted in residential areas upon approval of a CUP by City Council.
- Petition retains the institutional character of the block and would be compatible with the community.
- **The Planning Division recommends approval of the CUP petition.**

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**V. FINDINGS OF FACT**

1. **General Plan.** The Lynchburg *General Plan* recommends a Medium Density Residential use for the subject property. The subject petition proposes to use the property for an additional institutional use. The proposal will maintain the current practice of preserving existing residential areas as established by the *General Plan*.
  - **Zoning.** The existing residential zoning was established in 1930 and has remained as such to the present. The proposed use is compatible with the existing R-3 zoning in that a care center can be allowed in this district upon approval of a CUP by City Council. The petition will not change the existing zoning of the property.
2. **Board of Zoning Appeals (BZA).** No action by the BZA is necessary.
3. **Surrounding Area.** There have been no recent rezoning petitions or CUP petitions in the vicinity of the subject property. On November 12, 1985, City Council approved a CUP for an addition to the Church and the parking area. On October 25, 1994, City Council approved a CUP to allow the construction of an addition to the Church, parking, and a pavilion. The Church placed the CUP (and certain variances) into effect, but has not yet constructed the building addition and does not intend to construct the pavilion. A building permit for the addition to the Church is being pursued separately from the subject CUP.
4. **Site Description.** The site is approximately 0.9 acres on which the subject Church is located. The site is surrounded by residences, and undeveloped land. In 1975, the Church converted a residence, which was built before 1945, into the Church facility. Seating capacity of the sanctuary was earlier reported as being about 140 people. The Church now reports the seating capacity as 120 and the current petition would not change this capacity. The property slopes down from the intersection of Holliday Street and Edmunds Street toward the rear and toward the Expressway.

5. **Proposed Use of Property.** The purpose of the CUP is to allow the operation of a child care facility for approximately 49 children.
6. **Traffic & Parking.** The City Traffic Engineer had only one comment of concern regarding the subject petition. The proposed use is not expected to generate a significant amount of traffic, but there shall be no queing of vehicles or parking allowed on Holliday Street. The Church received approval to expand their parking area with the last CUP, but did not construct all of the proposed spaces. The site plan from Acres of Virginia, being submitted wit the current petition, clearly indicates the status of the parking situation and a total of 44 parking spaces proposed on the Church property. Based on the reported seating capacity of 120 people, the Zoning Ordinance would require 40 parking spaces.
7. **Storm Water Management.** The Environmental Specialist of the Robert E. Lee Soil & Water Conservation District notes that a storm water management plan will be required only if the disturbed area exceeds 1,000 square feet. Other than street drainage, the pending subdivision does propose any new disturbed areas.
8. **Visual Impact.** The current submittal proposes an expansion of the existing institutional use without removing any additional residences. The development will have the same visual impact as the current Church use and will be compatible with existing residences in the area. There is no concern about the visual impact the proposed use will have on adjacent residential areas. The new site plan also has notes addressing the usual items that are imposed as conditions for a CUP, such as:
  - Indicate the number of children (49) to be kept (Narrative note)
  - Restricting the flow of vehicles, as recommended by the Traffic Engineer (Note 18)
  - Prohibiting passenger drop off or pick up on Holliday Street, as per Traffic Engineer (Note 14)
  - Controlling exterior lighting (Note 12)
  - Landscaping equivalent to 5% of the paved area (Note 13)The proposed institutional use will not have an adverse impact on the future continued stability of the surrounding area. The proposed CUP is compatible with the surrounding land uses and zoning.
9. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on December 18 and noted the need for a few revisions, all of which were minor in nature and will need to be addressed by the petitioner prior to final site plan approval.
10. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary of appropriate in approving a CUP.

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## VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Christian Chapel for Conditional Use Permit at 2347 Holliday Street to allow the operation of a child care center in an existing Church in an R-3, Two-Family Residential District, subject to the following conditions:

1. The site shall be used and developed in substantial compliance with the site plan titled "Site Plan, Proposed Addition for Child Care Facility, Christian Chapel" at 2347 Holliday Street, by Acres of Virginia, dated January 14, 2002.
2. The maximum number of children shall be restricted to 49, unless a separate CUP petition is submitted to and approved by City Council.

This matter is respectfully offered for your consideration.

William K. McDonald, AICP  
Acting City Planner

pc: Mr. L. Kimball Payne, III, City Manager

Mr. Walter C. Erwin, City Attorney  
Ms. Rachel O. Flynn, Director of Community Planning & Development  
Mr. Bruce A. McNabb, Director of Public Works  
Mr. John W. Jennings, Fire Marshal  
Ms. Judith C. Wiegand, Strategic Planner  
Mr. J. Lee Newland, Director of Engineering  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Karl Cooler, Building Commissioner  
Mr. Arthur L. Tolley, Zoning Official  
Mr. Robert S. Fowler, Zoning Official  
Mr. Ray Triplett, Petitioner/Representative  
Mr. Thomas C. Brooks, Representative

## VII. ATTACHMENTS

### **1. Vicinity Zoning Pattern**

(see attached map)

### **2. Vicinity Proposed Land Use**

(see attached map)

### **3. Site Plan (previous and current)**

(see attached site plans)

## MINUTES FROM THE MARCH 20, 2002 PLANNING COMMISSION MEETING

Petition of Christian Chapel for a Conditional Use Permit to allow the operation of a child care facility for approximately 49 children in the existing Church building at 2347 Holliday Street in an R-3, Two-Family Residential District.

Mr. McDonald said the Planning Division report effectively explained the petition. He said the church was working on two projects concurrently. He said the first project was this request for a child-care facility, and the second project was the construction of an addition to the church that had been previously approved by the City.

Mr. Tommy Brooks, Sr., Acres of Virginia, 404 Clay Street, Lynchburg represented the church in this request. He added that the pastor, Mr. Ray Triplett, was also in attendance. Mr. Brooks explained that the church had been located on Holliday Street since 1980. He said the day care center would have a maximum of 49 children, ages two to ten years old, with five employees. He added that the hours of operation would be Monday-Friday, 6:30 a.m. to 6:00 p.m. and would serve hot meals to the children utilizing the existing church facilities. Mr. Brooks said there would be an outdoor play area, would be supervised by two employees, and would have a limit of ten children in the play area at any one time. He told the Commission that Reverend Triplett thought it was important to begin teaching moral values to children at an early age and hoped to have the childcare center ready for operation no later than July 1, 2002.

Mr. Fred Wayne, and his wife Frances Wayne, said they did not oppose the request, but expressed some concern with the project. Mr. and Mrs. Wayne explained that they currently live in Amherst County, but own the house next door to the church. They requested that a fence be built between their house and the church to keep the children from wondering on to their property. They said they were concerned that they would be held responsible if a child came onto their property and got hurt. Mrs. Wayne asked what the consequences would be if a situation like that happened after the hours of operation of the day care center.

Mr. Brooks explained to Mr. and Mrs. Wayne that the fence around the play area would not give the children an opportunity to roam onto their property, and added that the children would be supervised at all times. He said there would be either a four-foot high chain link fence or a decorative wood fence surrounding the play area. He told Mr. and Mrs. Wayne that by law in Virginia anyone on church property after hours would be trespassing. He said Reverend Triplett had the responsibility to have the law enforced, and added that he was sure that the pastor would do that.

Commissioner Echols asked who owned the property labeled as Lot 2; Block 9 on the site plan.

Mr. Brooks said the owner, Mrs. Ruby Hughes, died in testate, but the church was currently under contract to purchase the property. He said that even though they were working with a local attorney to purchase the property, it was a slow process.

Commissioner Pulliam voiced his concerned with the high number of children compared to the small number of employees. He asked if this was a school or a day care facility.

Mr. Brooks explained that the state law required one employee for every ten children. He added that this was not just a baby-sitting service, and that most day care facilities begin teaching children at an early age.

After further discussion, Commissioner Moore made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the petition of Christian Chapel for Conditional Use Permit at 2347 Holliday Street to allow the operation of a child care center in an existing Church in an R-3, Two-Family Residential District, subject to the following conditions:

1. The site shall be used and developed in substantial compliance with the site plan titled "Site Plan, Proposed Addition for Child Care Facility, Christian Chapel" at 2347 Holliday Street, by Acres of Virginia, dated January 14, 2002.
2. The maximum number of children shall be restricted to 49, unless a separate CUP petition is submitted to and approved by City Council. "

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:		0
ABSTENTIONS:		0